REMARKS

Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. New claims 37-42 are supported by previous claims 13, 14, 21, 22, 25 and 26. Claims 1-30 have been canceled, while claims 31-36 remain not entered. Thus, no new matter has been entered as a result of the amendments presented herein. Applicant expressly requests that the previous Amendment, mailed January 2, 2003, not be entered, in favor of the claim amendments presented herein.

Applicant thanks the Examiner for extending the courtesy of a telephone conference on February 5, 2003, and for providing a new non-final Office Action.

Applicant respectfully traverses the Examiner's rejection of claims 11-12, 15-20, 23-24 and 27-30 under 35 U.S.C. § 102(e) as anticipated by Gambale et al., U.S. Patent No. 4,922,924. Claims 11-30 have been canceled without prejudice, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection.

With respect to newly entered claims 37-42, Applicant notes that Gambale et al. do not describe or disclose an intravascular guidewire that has a plurality of radiopaque markers that can each be about 1 millimeter in width and that can be spaced about 1.5 centimeters apart. Thus, Gambale et al. cannot reasonably be considered as anticipating the claimed invention.

Applicant respectfully traverses the Examiner's rejection of claims 13-14, 21, 22, 25 and 26 under 35 U.S.C. § 103(a) as unpatentable over Gambale et al., U.S. Patent No. 4,922,924. Claims 11-30 have been canceled without prejudice, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection.

With respect to newly entered claims 37-42, the Examiner has admitted that Gambale et al. do not describe or suggest the claimed marker dimensions or spacing, but asserts that such would be obvious to one of skill in the art, particularly absent a showing of criticality of said dimensions.

As described in the specification, the intravascular guidewires described in the pending claims can be employed with catheters such as balloon catheters (see, for example, page 9, line 16 through page 10, line 23). In use, a guidewire having a distal radiopaque tip is advanced through a patient's vasculature until the guidewire reaches and extends through a treatment site such as a stenosis. During this process, a radiopaque dye is periodically injected to permit visualization of the stenosis.

Once the guidewire has been advanced beyond the stenosis, the physician can record the position of the stenosis relative to one of the radiopaque markers on the guidewire. This provides a reference marker for locating the stenosis and thus it is not necessary to continue injecting radiopaque dye. This is beneficial, because the continued use of radiopaque dye can present surgical complications and can unnecessarily expose the patient to radiation (see page 11, lines 3-11). The balloon catheter can then be advanced until its balloon marker is aligned with the reference marker.

A balloon catheter can have a balloon marker that is positioned proximate a midpoint of the balloon. The balloon marker can be positioned about 1.5 centimeters from the distal end of the balloon catheter. Thus, by spacing the corresponding guidewire radiopaque markers about 1.5 centimeters apart, a physician is able to precisely position the balloon catheter relative to the stenosis.

Moreover, by using guidewire markers that are spaced apart a distance that is equal to the distance between the distal end of the balloon catheter and the balloon marker thereof, balloon positioning and alignment is improved by permitting three reference points as to where the balloon will be located when positioned proximate the stenosis. These three reference points are the reference radiopaque marker that aligns with the balloon marker, and the two radiopaque markers on either side of the reference radiopaque marker (see page 13, line 23 through page 14, line 7).

Thus, the claimed intravascular guidewire having a plurality of radiopaque markers that are spaced about 1.5 centimeters apart is indeed both novel and inventive over the cited reference. Favorable reconsideration is respectfully requested.

Applicant respectfully traverses the Examiner's rejection of claims 11-30 under the judicially created doctrine of obviousness-type double patenting over claims 1, 5-7, 9 and 10 of U.S. Patent No. 6,179,788. Claims 11-30 have been canceled, thereby rendering the rejection moot. Applicant does not concede the correctness of the rejection, or its applicability to new claims 37-42. Indeed, the cited claims of U.S. Patent No. 6,179,788 do not disclose the claimed radiopaque marker spacing.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

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